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THE

MESSAGE

FROM THE

GOVERNOR

TO THE

Legislature of the State of New-York,

ON THE OPENING OF THE SESSION

JANUARY 2, 1827.

ALBANY:

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MESSAGE.

Fellow-Citizens of the Senate and of the Assembly:

A review of the last year must excite the deepest emotions of gratitude to the Almighty Dispenser of all good, for the signal blessings confered on this community. In every direction we perceive the footsteps of growing improvement and progressive prosperity. In the erection of new and the augmentation of old villages, towns and cities, we recognize the animating spirit of easy communication and the wide spreading advantages of internal trade. This increase of our markets will necessarily create a dispensation and interchange of benefits, that must be felt in every operation of labor and in every department of industry. The commercial gloom, which was some months since spread over the civilized world, has, in a great measure, disappeared; and it is to be hoped, that learning wisdom from experience, and moderation from adversity, we will never again witness a recurrence of a spirit of over weening speculation and over reaching cupidity, equally injurious to good morals and social prosperity.

As a component part of a great federal republic, it is our incumbent duty to support the general government in all its measures that are worthy of support, to cultivate amity and good will with our confederates, and to discountenance all tendencies to overthrow by consolidation, or to destroy by dismemberment our admirable systems of government. Peace with all the world is with us a primary duty and a cardinal interest. Whatever may be the aspect or whatever the direction of our foreign negociations, there is no reason to apprehend any change in our pacific relations, nor can we imagine the possibility of any diplomatic involutions that may place us in a position from which we cannot advance without danger nor recede without disgrace. Powerful in defensive and ill adapted for offensive war; calculated by position, destined by interest, and enjoined by duty, to be a pacific nation; we must sedulously abstain from entangling or identifying ourselves with the political arrangements of other nations. In relation to our domestic concerns, the path of duty is equally plain. We have only to pursue the same policy which has conducted us to opulence and established our prosperity and reputation on imperishable foundations.

Another attempt as futile as the former, has been made by a custom house collector in the west to apply the revenue laws of

the United States to the navigation of the Erie canal. It does not appear that this proceeding has received any countenance from higher authorities, nor can it for a moment be believed that a claim so preposterous in its assumptions and so pernicious in its results, would at any time be encouraged in any quarter. As the spirit of internal improvement is rapidly extending in every direction, it has become a question of great moment, whether the general government has power, with or without the consent of the state governments, to construct canals and roads in their territories, and whether such power, if not already vested, ought to be granted? High authorities are to be found on both sides of this question; and after devoting to it all the consideration to which, from its importance, it is entitled, I think it due to a sense of duty and a spirit of frankness to say, that my opinion is equally hostile to its possession, or exercise, by or its investment in the national authorities, I can perceive in it nothing less than the harbinger of certain destruction to the state governments, nor can we but see that it at once breaks down the barrier between a government for national or exterior affairs, and local governments for domestic or interior concerns. As well might congress take cognizance of agriculture, common schools, universities, penal codes, and the whole range of local and internal regulation, as of roads and canals. As, however, the general government is possessed of the national domains, and has exclusive authority over the most productive sources of revenue, I believe that the power of distributing the necessary funds among the several states for objects of public improvement, ought to be incorporated in the constitution, if not recognized as already in existence.

While on the subject of amendments to our national constitution, I cannot but express my regret that the enlightened and magnanimous views of this state, in relation to the choice of President and Vice President have not been realized. Our overture was to establish an uniform rule of choosing electors by the people and by districts. In committing this power to the people, it vests it in its appropriate depository, the legitimate sovereign of the country, diminishes the chances of corruption, and the dangers of foreign influence, destroys the evils of pre-existing bodies for the election of the colleges, and prevents combinations of a few great states to create by their own power the national Chief Magistrates. The provision is perfectly safe, unless the people be venal and profligate, and then liberty is in all cases without protection, and free government without hope. It is fair and equal, if it be uniform, but without insertion into the constitution, it will subvert a just representation of power. I am persuaded that as the legislature of a great state, you feel above the influence of any considerations connected with an invidious and dangerous assumption or exercise of power. The great states will always possess an influence correspondent with the most extensive combinations of moral and physical power, unless they become the dupes of extrane-

ous intrigue or the victims of internal agitation ; and they therefore ought to abdicate all pretensions and avoid all associations calculated to excite the jealousy, or diminish the just rights of the minor members of the confederacy

A controversy much to be regretted has existed for some years between our sister New-Jersey and us. Our claim of jurisdiction and territory reaches to low water mark, on the west side of the Hudson and the Sound that separates Staten Island from New-Jersey, while the adverse title extends ad filum aquæ. In 1807 this controversy was submitted to negociation, which terminated with more precipitation than good temper, and without any favorable result. Subsequently, and in the same year, New-Jersey passed an act for the protection of her claims, and imposing severe penalties. During the following year, New-York passed a law of a retaliatory character, but not so penal in its inflictions. Our act of 1798, was not intended to refer to New-Jersey. It was passed during the administration of the venerable and highly respected Governor Jay, and a long time before the agitation of this controversy. Its object was to bear on a title derived from another state, absurd in itself, indefensible in all respects, injurious to the increase of our population, and perplexing to our citizens : And the law had the contemplated effect. In 1825, an attempt was made to adjust this controversy, by instituting a new board of commissioners, clothed with authority to negotiate subject to ratification, and a law was enacted for the purpose by New-Jersey ; a correspondent bill passed the senate unanimously, which owing to an inexplicable opposition, was so long procrastinated in the Assembly that it was merged in unfinished business; since which period, this controversy has assumed a more serious aspect. A ministerial officer of this state has been arrested in New-Jersey, for serving process within the disputed jurisdiction ; and he is liable to incarceration in a state prison. I conceive it due to the comity that ought to exist between independent communities, to the amity which ought to be cherished by bordering and confederate states to a sense of justice, magnanimity and self-respect, to allay the exasperated feelings which prevail, and to close with a negociation again agreed to by our sister republic. I shall transmit to you, in due time, the documents which relate to this subject.

The precarious and uncertain condition of the elective franchise, depending more on the volition and agency of assessors, collectors, militia officers, and road masters, than on a fixed and certain tenure, rendered it necessary that defects so glaring and dangerous should be removed by constitutional amendment. In 1825 I called the attention of the legislature to this subject, and I now have the satisfaction to announce that the right of election has been established on a firm and certain basis, the amendment for that purpose having received the sanction of the two last legislatures, and the almost unanimous vote of the people. As the right of suffrage composes the essence of freedom, and is the vital and char-

acteristic principleof representative government, it ought to be fortified against corruption, illuminated by knowledge and shielded by moral and political virtue. Our elections, which have occupied three days, and occasioned much contention, many irregularities and some flagrant violations of rectitude, may now be compressed within a shorter period and conducted with more regularity and purity. Lists of the qualified voters in each town may be periodically compiled, and resorted to as conclusive evidence of a right to exercise the elective franchise in a particular place, by which means partiality, fraud and purjury may be prevented. Severe restraints ought also to be established against the pernicious practices of employing hirelings to bring up votes—of beleaguring the polls to the annoyance or excluson of aged, infirm and orderly citizens—of dispensing donatives or largesses of any kind to influence votes, or of employing any means of intimidation or corruption that may effect the purity and independence of the elective franchise.

But after all, the great bulwark of republican government is the cultivation of education, for the right of suffrage cannot be exercised in a salutary manner without intelligence. It is gratifying to find that education continues to flourish. We may safely estimate the number of our common schools at eight thousand, the number of children taught during the last year, on an average of eight months at four hundred and thirty thousand, and the sum expended in instruction at two hundred thousand dollars. It is however too palpable that our system is surrounded by imperfections which demand the wise consideration and improving interposition of the legislature—In the first place there is no provision made for the education of competent instructors: of the eight thousand now employed in this state too many are destitute of the requisite qualifications, and perhaps no considerable number are able to teach beyond rudimental instruction. Ten years of a child's life from five to fifteen may be spent in a common school, and ought this immense portion of time to be absorbed in learning what can be acquired in a short period. Perhaps one fourth of our population is annually instructed in our common schools, and ought the minds and morals of the rising and perhaps the destinies of all future generations to be entrusted to the guardianship of incompetence? The scale of instruction must be elevated; the standard of education ought to be raised—and a central school on the monitorial plan ought to be established in each county for the education of teachers, and as exemplars for other momentous purposes connected with the improvement of the human mind. The trustees of the public school society of New-York, have issued a prospectus for the establishment of a central school in that city, wherein are to be taught for the education of teachers, natural philosophy, practical mathematics, mercantile arithmetic, book keeping, and the outlines of natural science. A school on a similar plan, and embracing a variety of important objects has been founded by some enlightened and public spirited citizens in Livingston county, and there is reason to

hope that these meritorious exertions will be crowned with complete success. I cannot speak in terms of sufficient praise of these most laudable attempts nor recommend them too emphatically to public patronage and general imitation. Small and suitable collections of books and maps attached to our common schools and periodical examinations to test the proficiency of the scholars, and the merits of the teachers, are worthy of attention : when it is understood that objects of this description, enter into the very formation of our characters, control our destinies through life, protect the freedom and advance the glory of our country : and when it is considered that seminaries for general education are either not provided in the old world or but imperfectly supplied by charity and sunday schools, and that this is the appropriate soil of liberty and education, let it be our pride, as it is our duty, to spare no exertion and to shrink from no expense, in the promotion of a cause consecrated by religion and enjoined by patriotism. Nor let us be regardless of ample encouragement of the higher institutions devoted to literature and science. Independently of their intrinsic merits and their diffusive and enduring benefits, in reference to their appropriate objects, they have, in a special manner, a most auspicious influence on all subordinate institutions : They give to society men of improved and enlarged minds, who feeling the importance of information in their own experience, will naturally cherish an ardent desire to extend its blessings. Science delights in expansion as well as in concentration ; and after having flourished within the precincts of Academies and Universities, will spread itself over the land, enlightening society and ameliorating the condition of man : The more elevated the tree of knowledge and the more expanded its branches, the greater will be its trunk and the deeper its root. Simultaneouly with the improvement of the constitution relative to the elective franchise, another amendment was adopted, committing the choice of Justices of the Peace to the people. These appointments have been considered as intimately connected with political influence from the earliest periods of our history. Under the Colonial Governors, they were made not so much with a view to fitness as to the support dispensed to friendly members of the Assembly. Under the council of appointment these offices depended on the fluctuations of party ascendency; and under the new constitution a complex system was established, which ostensibly created an appointing power in every county, but in reality brought the substance of it home to the seat of government ; and it was attended with the political solecism of not only converting the county judges into a co-ordinate appointing power, but of investing them with authority to remove their associates in the general sessions from office, while sitting on the same bench. The people are at last possessed of the right of choosing their own local magistrates, and the appointment of nearly three thousand offices, is thus placed in the proper depository. The common place objection of the dangers of an elective judiciary can have no weight in its application

to this case. The Aldermen of New-York and Albany who are ex-officiis judges of the county courts, have been elected from the first foundation of those cities, and no just imputation has been made on that account against the honest and Independent exercise of their functions. Your attention will of course be afforded to such legislation as may be requisite to carry these important improvements into full effect.

The charter of the New-York Historical society, which had expired by its own limitation, was renewed at the last session, but without the pecuniary aid that was solicited and which would have been worthily bestowed, considering the light which its researches and collections have shed on the history of America in general, and of this state in particular. It appears that the society has recently procured and published a manuscript continuation from 1732 to1762 of Smith's history of this province. The translations of our Dutch Records, at the public expense, by the learned Doctor Vanderkemp, have opened sources of Historical information, which were before locked up in a language little known and in manuscripts scarcely legible. In 1814 the Historical Society addressed a memorial to the Legislature, wherein it indicated several places for important acquisitions.—In the office of the board of trade and plantations, in England, in the British Museum, and in the library for the society for the propagation of the gospel in America, books and manuscripts of great moment relative to our history may be found. And it would be very useful to obtain transcripts of all publications and documents in those quarters, which may elucidate our annals in their aboriginal and colonial state.

An authentic and official map of the state is a desideratum which ought to be supplied, and this is suggested without any disparagement of the laudable attempts which have been made by individuals for that purpose.

The provision made at the last session, for the extension and support in the City of New-York, of the House of Refuge for juvenile delinquents, has been faithfully and beneficialy applied. A separate and accommodating building has been erected for females and schools on the monitorial plan have been successfully established: The institution now contains one hundred and thirty-one males, and thirty females, who have been rescued from the most abject debasement—and preventive as well as remedial in its influences, it must be considered a noble as well as successful experiment in favor of humanity: All, however, will depend on a continuance of able superintendence, and it is hoped that the philanthropic men who have gratuitously and perseveringly devoted themselves to this great work. will not relax in their exertions. Instances have occurred where the most abandoned youth, after having experienced the moral purification of the House of Refuge, have encountered the dangerous exposures of a maritime life without the least detriment to their good habits. It is to be regretted that some very youngc onvicts have been sentenced in the counties

to the state prison where they ought to have been sent to this penitentiary, and it appears that a conviction recently took place in the circuit court of the U. States when the criminal was a proper subject for the latter, but that this designation could not take place, as the law allowing the use of our prisons and penitentiaries for offenders against the U. States only applies to commitments before trial. This is an accidental omission and ought to be rectified. It is gratifying to observe the increasing attention to institutions of this kind in other states and the probability of their extensive establishment; and it is also gratifying to know that nothing has been done in favor of the House of Refuge which has in the remotest degree interfered with the interests and concerns of our quarentine establishment; all its needful requirements have been amply satisfied, and besides the payment of all its expenses, an extensive brick hospital with other useful erections, is in a train of completion.

The debt created by the construction of the Erie and Champlain canals and subsiduary works amounts to seven million nine hundred forty-four thousand seven hundred and seventy dollars and ninety cents, paying an interest of six and five per cent. The interest on the whole is $427,673.55 per annum; and the fund applicable to the extinguishment of this debt, will it is believed, amount this year to $ 1,057,585 46

To wit.

From Tolls	$ 771,780 10
From auction duties for the fiscal year, ending 30th November last,	200,737 84
Salt Duties.	77,405 33
Other sources.	7,635 19

By the constitution, this fund cannot, nor ought it to be diverted from its designated object. This state has derived great reputation from its enterprise in undertaking, and its perseverance in executing a work of immense benefit, and it ought to set another example of the extinguishment of a great public debt. This precedent will be more beneficial in itself and more animating in all its aspects and consequences, than any fugitive or even permanent advantages that can emanate from another course. In the mean time we must feel certain that this important object will be soon accomplished and we can safely make prospective calculations accordingly. The primary object of all improvements which create and facilitate communication by land or water, is the public accommodation and the promotion of internal commerce. Revenue, although a desirable, is only a secondary inducement, and whenever a collision arises, the subaltern must, as in all other instances, yield to the principal consideration. The standard, by which all operations of this kind ought to be regulated, is the public ability to sustain the expense: and although income may enter into the consideration of that question, yet when the capacity may exist without reference to the proceeds of a work erected for the general

accommodation, the resulting avails can never be the controlling inducement; and it ought always to be emphatically understood that the expenditure of public money in works of utility, enriches the country in which it is applied, increases its ability to defray the public burdens, establishes profitable markets in all directions, enhances the value of land, augments the amount of capital and rewards the exertions of industry and the exhibitions of ingenuity. In times of pressure, no relief can be more effectual, and the experience of the country through which the western and northern canals were constructed, evinced the absence of those distresses, which for a considerable portion of the time, were felt in almost every other quarter. The funds thus employed, circulate from the extremities to the heart of the body politic, quickening the movements of labor, animating the operations of capital, and augmenting the productions of industry.

Our canals have been principally made by the state, and our roads by incorporated companies, by individuals, by towns and counties and by the state at large.—In those improvements which are to be achieved in future, there will undoubtedly be full scope for all these sources of contribution and they will demand all the united efforts of our disposable capital and labor. The canals which now principally occupy the public attention, embrace a navigable union of the principal bays on Long-Island—of the Hudson and Delaware Rivers—of the Erie canal with the East and West branches of the Susquehannah, with the Allegany River, with Lake Ontario by great Sodus Bay—with Black and St. Lawrence rivers; and between the latter river and Lake Champlain, and even a canal from Lake Erie to the Hudson river by an entire new route, has been suggested as practicable and expedient and urged with great earnestness and energy. Of all the operations which have been conducted by incorporations, there is none entitled to more commendation and public favor than the canal constructed by the Delaware and Hudson Company, comprising a distance of sixty-three miles from the Delaware to the Hudson river. This work will be navigable at the opening of the spring, embraces 61 Locks, besides Culverts, Aqueducts, Bridges and other necessary appurtenances. It was commenced in August, 1825, and was performed with great economy as well as skill, and at an expense below the estimate. There still remains to be executed about twenty miles from the point where the canal strikes the Delaware along the valley of that river, to the mouth of the Lackawaxen. From thence it is contemplated to have a communication to the Anthracite Coal Beds, from which coal in any quantity, and of excellent quality may be brought along this route and delivered at the towns on the Hudson, for three dollars and nine cents a ton. It is supposed that a canal might be continued from the termination of this at the confluence of the Lackawaxen and Delaware, to deposite on the latter river a distance of sixty-six miles, and from thence to Bettsburgh on the Susquehannah thirteen miles: From

which place on examinations instrumental and personal, it is understood that a good navigation might be effected along the vallies of the Susquehannah and Tioga, and of the branches of the latter as far west as Hornellsville in Steuben County, forming a continuous line of canal 230 miles at least: And it is believed that this navigable communication may be extended to Portland on Lake Erie, and to Pittsburgh at the head of the Ohio. But it is sufficient to say that this canal considered without any reference to its extension is of vast importance in the accommodations which it will afford and as such it is entitled to your countenance. In what precise shape, this ought to be manifested, will of course be a subject of your wise deliberations.

I have great pleasure on this occasion, in recommending to your favorable notice, a company which was incorporated on the 9th of April, 1824, by an act entitled "an act to incorporate the Orange and Sussex Canal Company." The object of this corporation is to form a navigable communication between the Hudson near Newburgh and the Delaware near the Water Gap, and which it is conjectured may be extended to the Susquehannah. The state of N. Jersey has passed a concurrent act of incorporation. The whole distance is about 88 miles. The ascent from the Hudson to the summit level is about 430 feet, from whence the descent to the Delaware is 207. The whole line is through a spacious valley formed by a continuation of the Catskill Mountains on the one side and of the Highlands on the other. This region is replenished with valuable minerals and lumber of all kinds and its abundant fertility is conceded. The only question that can exist as to the feasibility of this project, is as to a sufficient supply of water at certain periods, but it is highly probable that the pending examinations will dissipate all apprehensions in this respect.

There are five routes proposed between the Erie canal and the Susquehannah, to wit; from the head of the Seneca Lake to the Tioga or Chemung river, from the head of Cayuga lake to Owego; by Otsego lake, by the valley of the Chenango river, and from Manlius through Pompey and Homer to Chenango Point. Five communications are also contemplated between the same canal and the Allegany river; by the Valley of the Genesee to Olean Point—by that of Tonnewanda to the same point and also from Buffalo to the same place by Buffalo Creek Lime Lake and Ischua Creek; by the Valley of the Conewango and by Lakes Erie and Chautauque. Several routes have been indicated and some explored from the Erie canal to the St. Lawrence and the practicability and utility in particular of a canal from Rome through Boonsville or Camden to Ogdensburgh are put beyond all doubt. I have heretofore had occasion to speak in the most favorable terms of some of these projected communications, and time and enquiry have confirmed my impressions.

Bituminous Coal of good quality surrounded by approved Iron Ore, is found in the greatest abundance and can be procured with

little expense in Pennsylvania about twenty miles from the line of this state and as soon as the Seneca Lake is united with the Tioga may be conveyed to this City for about seven dollars a ton. It is due to justice to state that the prominent objection made last session against the Chenango canal is completely prostrated, for a scrutinizing examination has demonstrated that a plenary supply of water can be obtained at all seasons. Anthracite Coal from Belmont in Pennsylvania can be obtained through this channel and strong indications exist of the presence of coal in Oxford; there can be no doubt but that a productive revenue will be derived from the conveyance particulary of that fossil, salt and gypsum. I shall not however trespass on your time by entering more into detail. But permit me to remark that the expense of such operations may be greatly diminished by the adoption of wooden locks in forest countries and of inclined planes in hilly regions from the experiments already made there can be but little doubt of the successful substitution of the latter. I submit the whole subject to your enlightened consideration, not doubting but that you will view it in all its attitudes and bearings and with a full determination to dispense such encouragement as may be authorised by the merits of the projects and by the resources of the commonwealth, and with a judicious view of prospective as well as present considerations, and of all the beneficial combinations and consequences that must necessarily flow from extending the sphere of our improvements, and exciting into activity all the springs of productive industry.

It is presumed to be a general rule of easy application and execution, that the cost of the repairs and superintendence of a canal ought not to exceed one tenth of its gross income. Whether this is the case with us is not easily ascertained, because the expenditures for repairs and new erections are probably in some instances mixed together. But I am persuaded that a system of precautionary economy and considerable retrenchment might be adopted greatly to the advantage of the canal fund and in favor of other improvements. Complaints are made, and I have no doubt with good cause in several instances, of the high rates of toll, as having a discouraging influence on our trade: If high, they may have a prohibitory effect, and prevent entirely, or for certain distances, the transit of some articles. The cheaper the conveyance, the more commodities will be conveyed; and the profits of the canals may be thus augmented instead of being diminished by low duties. It is indeed supposed that the tolls on some commodities may be reduced or approximated to the constitutional minimum without any loss of revenue: And it is a subject worthy of your serious consideration, whether the power of imposing transit duties or taxes, being a legislative power, ought to be delegated or transferred, unless under extraordinary circumstances.

The construction of a great road from the Hudson river to Lake Erie through the south western counties, has been for a considerable time under public consideration, and for two conse-

cutive sessions under legislative discussion. Its claims to public favour are generally well understood, and I believe duly appreciated. Like all other momentous plans it is not without its opposers, whose motives are undoubtedly pure, although there may be little force in their objections. Some are hostile from views of economy—others from local feelings, and probably a few from not comprehending the whole merits of a project of such diversified bearings, and such colossal dimensions. If a road be advantageous and accommodating for a short distance, its benefits must be felt in the ratio of its extension, and if its passage be through a fertile country of various and inexhaustible powers of production, calculated in some parts for grain, in others for cattle and the dairy, filled with valuable timber and minerals, it must not only open a lucrative market to our great cities, but establish places of sale and purchase for the accomodation of a dense population, which will spring up in the whole range, and spread over the whole area of the interior. We need only cast our eyes on Philadelphia and Pittsburgh, and duly estimate the condition of those prosperous cities, and the intervening regions, in order to realize the soundness of these views, and when our canals and rivers are locked up by ice, we will still be able to find a way to the ocean. You will excuse my repeated mention of this subject, for I assure you that I cherish no other feelings than those which are connected with a deep solicitude for the public welfare, and I think that I may venture to entertain some confidence on this occasion, speaking as I do from personal examination, cautious investigation and mature deliberation. And I am entirely willing to encounter my full share of the responsibility of a measure which will make the wilderness and solitary places glad, and the desert rejoice and blossom as the rose.

In the satisfaction which we experience from the view of our improvements prospective as well as actual, we cannot but participate in the gratifications which must be derived from the prevalence of a similar spirit in other portions of the union. Ohio is pushing her vast operations with a spirit, energy and success, worthy of all praise, and one of our citizens has, greatly to his honor, loaned her a million of dollars for that purpose. A canal is rapidly constructing around the falls of Ohio. A navigable communication between the waters of the Chesapeake and Delaware, is in successful progress. And besides the meritorious canals in Pennsylvania, which have been made and are making, by associated enterprise, that great state has established a board for public improvements with a view to more extended operations. A communication is also contemplated between the waters of the Potomac and the Ohio; and it is ardently hoped that this stupendous project will be as successful in its execution, as it is magnificent in its design, and that its interests will be promoted by the most liberal contributions of public munificence.

The late alarming commercial convulsions, ought to inculcate

the necessity of avoiding a recurrence of those calamities, by avoiding the causes which produced them. Heretofore the calamitous derangements in Great Britain have been ascribed to a variety of causes—but principally to a transition state from war to peace and to excess of production, but I believe that the better opinion now is that they are chiefly imputable to excessive emissions of paper money in the shape of bank notes: And as similar distresses were experienced almost contemporaneously in this country, we may trace them to similar causes. The profits of our city banks, besides interest on actual capital, are derived from discounts on deposits and issues of paper money. And those of the country banks, principally from the last source. A bank, generally speaking, may issue notes to three times the amount of the capital paid in. This, although intended for a wholesome restriction, is in reality a most pernicious authorization, and can never be justified by any state of things. The authority to create money, will almost always be abused, and the expedients to produce a forced and artificial circulation of bank paper; and to redeem it on every alarm, and convulsion must inevitably scatter distrust and confusion in the moneyed market, engender a system of deleterious speculation, derange the natural course of trade, and produce those alternations of prices which are injurious to all descriptions of people. In these struggles of cupidity, a few great fortunes may be made; but fraud, peculation, and bankruptcy, will follow in their train.—The regular current of business will be checked—credit will be banished, and capital will either seek security in abstraction from business, or tempted by high profits, will give the reins to an adventuring spirit, and participate in the general wreck and ruin. It is to be ardently hoped that the legislature will exercise more than ordinary circumspection in future. A few solitary cases may present where chartered grants may be auspicious to particular places, and the surrounding country; but the power of making money, is a dangerous faculty, and its liability to perversion, is in proportion to its extension. Banking privileges deposited in unskilful hands, may be abused without design, and from ignorance; but when granted to fraudulent men who prefer wealth to character, and the gratifications of avarice to the honors of virtue, there will scarcely be bounds to the evils that will ensue; and experience has evinced, that applications of this kind are made almost always for personal benefit, not for public accommodation. Some general regulations are indispensably necessary, for restricting the issues of bank paper, for prescribing the possession of a certain quantity of metallic money and adequate security for the redemption of bank notes and the payment of debts, for compelling the attendance and increasing the responsibility of directors, for detecting any errors or misstatements in the periodical renditions of the state of banking institutions, and for prohibiting the circulation of bank notes below a certain sum: and it is believed by many respectable and well informed citizens, that insurance might be obtained at a cheaper rate, and from sources equally

safe with the present, if the act to prevent foreigners from becoming insurers in certain cases in this state were repealed.

The revision of our statutes will necessarily bring before you the merits of our criminal code. There is one capital defect which pervades the whole system, and that is the extensive latitude which is given to judicial discretion in the dispensation of punishments. We have sixty-three criminal courts, besides tribunals of summary jurisdiction for the trial of petty offences. There is of course great disparities in punishments; again the specific statutory punishments are sometimes so unequal in their application to crimes, that injustice bordering on cruelty, may result. All kinds of burglary, whether merely technical or highly aggravated, are punished with imprisonment for life in the state prison. Hence, offences of a trivial nature, not exceeding sometimes petty larceny in depravity or danger, may receive that tremendous infliction. Manslaughter sometimes borders on excusable homicide, and at other times assimilates to murder. In England it is punishable with fine or transportation—here the punishment must not be less than three, nor more than fourteen years in the state prison. For a second conviction for petty larceny, the convict must go to the state prison for three years, and the first conviction may be a summary one without the intervention of a jury. I have recently pardoned a convict of this description after an imprisonment of more than a year, and well recommended in other respects, whose first offence consisted in stealing a whip lash, and the second a shilling. The counterfeiting or fraudulently uttering gold or silver coin, is punishable with imprisonment for life. The same offence in relation to paper money may be visited with the same imprisonment, or for a period not less than seven years. The possession of metallic money with intent to pass it, may be punished for not more than seven years, and the possession of paper money with the like intent, must be punished for not less than seven years It will at once be perceived that among the many evils which proceed from these disparities and incongruities, not the least are the continual applications for pardons, and sometimes the absolute necessity of the interference of the executive, who must either remain inexorable to the united voice of justice and mercy and the recommendations of courts and juries, or countenance to a certain extent, a departure from a strict system of penal inflictions.

Crimes are generally gradual in their progress and most frequently commence in misdemeanors of no great aggravation. Hence the necessity of arresting their progress in the first stages of depravity. To houses devoted to gambling, intemperance and licentiousness, we may trace the degradation of our youth and the sources of parental affliction. It is alleged that there are defects in our laws for the prevention of immorality, which require your correcting interposition, and the importance of this suggestion, is certainly deserving of your early notice.

During the recess, suits have been brought by claimants deriving title under the children of Roger Morris and Mary his wife, against

grantees under the state: and in pursuance of the act more effectually to provide for defending the titles of certain persons in the counties of Putnam and Dutchess, derived from the people of this state, against any claims set up by or under the children of Roger Morris and Mary his wife, deceased, I have employed able counsel to assist the Attorney General in defending such suits. At the close of the last session, a committee was appointed by the senate, to confer with the claimants. I am not advised of the results of this arrangement, but I understand that a disposition still exists, on their part, for an amicable and accommodating negociation.

It sometimes happens from the lapse of years, that the titles of land are in some instances endangered by the want of authority to put the deeds on record. According to the present law, a deed cannot be recorded unless its execution be proved by one of the subscribing witnesses, or be acknowledged by the grantor. There are deeds however, to which the witnesses and grantors are all dead or resident without the state. In these cases, their execution cannot be proved or acknowledged so as to be recorded, and consequently the owners of the lands can only use the deeds as evidence by proving on trial, in open court, first, that the subscribing witnesses, reside out of the state, or are dead, and secondly, the hand writing of the witnesses But witnesses to prove the death or non-residence and the hand writing of subscribing witnesses, are fast lessening in number as their ages advance. In this way the owners of lands may fail in their attempts to establish their titles, for although ancient deeds are sometimes given in evidence, without proof of their execution, where possession of the lands has corresponded with them, yet the term of time necessary to bring a deed under this denomination, does not seem to be definitely settled. To obviate in some degree, these evils, it might be advisable to provide for proving deeds where the subscribing witnesses and grantors all reside out of the state or are dead in like manner, as the same deeds under the same circumstances would be proved in trials in open court, and also for allowing the deeds so proved to be put on record. As this proof would be rather special, it might be expedient to require it to be taken before one of the judges of our supreme or circuit courts or before a judge of a simular grade in a different state.

In cases of vacancies in the offices of clerks and sheriffs of counties, the executive is directed to order new elections within a prescribed period. As the strict execution of this act is sometimes attended with unnecessary in convenience to the people, itis submitted to you whether it would not be expedient to convert this mandatory into a discretionary provision.

The frequent applications for field ordnance for the requisite supply of the artillery is not a little perplexing to the Commissary General and as he is not provided with the means of compliance, that useful corps is greatly discouraged in its meritorious exertions.

Our code in relation to pauperism is nearly a transcript of the

English system, and a worse model could not be found. Experience has shown that pauperism has increased in the ratio of its supplies and accommodations. The establishment of county alms houses with appendant farms for labor, has had a most mitigating effect, wherever the experiment has been fairly tried: Besides the diminution of expense, as well as of the number of the poor, their comfort will be much increased. And it is said if the avails of the excise were transferred as they ought to be from the towns, to the support of the county poor houses, that any other taxation for pauperism will be rendered unnecessary.

The extraordinary migrations to this state from foreign countries during the last season have been attended with privations, afflictions, and calamities, that strongly appeal to our humanity. Whatever discordant opinions may be entertained as to the policy, there can be none as to the benevolence of relief. Some of our cities and towns are already unduly burdened with persons of this description and the distressing condition of so many human beings, certainly presents a strong case for the charity of the state.

As the demands of this state against the United States for advances during the late war, were not finally adjusted, I requested the comptroller to repair to the seat of the national government, and attend in person to this concern. This he has done as far as in his power, promptly and satisfactorily. At a time of great pressure and public danger, when the national government was crippled in its means, and paralyzed in its operations, this state stepped forward and contributed all in its power to defend the soil and sustain the honor of our country. The governor of this state, for a portion of the war, had a command as Major General under the United States, and in military movements, as well as in the operations of the commissariat and the payment of the troops, there was a mixture of state and national authorities. And this too occurred at a period peculiarly perplexing, when the turmoils and agitations of the times interfered with a close and accurate attention to the ordinary routine of business—hence arose confusion in the accounts, imperfections in the vouchers, and great embarrassments in all the arrangements. It was therefore to be expected that the settlement of our demands would not be fettered by a fastidious application of technical formalities, but that the public spirit of the state would be met by a correspondent liberality. This anticipation not heaving been realized, and there being still equitably due 186,000 dollars on account of princip l and interest, it will remain with you to determine on the expediency of an application to the national legislature, where alone justice can now be obtained.

The other object contemplated in the act for the settlement of our concerns with the United States has been seduously attended to, but without success, I mean the sale of our lands, buildings, fortifications, and heavy ordnance on Staten Island. I have understood that the very able board of engineers has considered those possessions as an important branch of a system of general defence,

but hitherto no authority has been given to complete the purchase. In the mean time, an application has been made by the treasury department for three or four acres off the southern extremity of the land for the site of a light house. It ought to be well understood before this disposition is made, whether it may not interfere with defensive erections, or impair the general value of the property.

Few events in our times have created a stronger and more general sensation than the coincident deaths on the fiftieth anniversary of our national existence, of two of the immortal band of patriots and statesmen that composed the American Congress of 1776—the one the eloquent writer and both the able advocates and intrepid signers of the declaration of independence.

In cherishing those sentiments of respect and veneration which are due to distinguished and departed merit, let us not be unmindful of the immense debt of gratitude which we owe to the surviving worthies of the revolution. Their number is constantly diminishing by the encroachments of advanced age, and the decay of constitutions impaired by the hardships of a military life. The claims of those excellent men for unrequited services and unsurpassed sufferings, are now before the councils of the nation: Let gratitude and justice unite in dispensing the full measure of just retribution, in imparting comfort to their declining years, and letting their end be peace.

It is suitable to this occasion to solicit your attention to the following resolve of congress, passed on the 4th of October, 1777:

"*Resolved*, That the Governor and Council of New-York be desired to erect a monument, at continental expense, of the value of five hundred dollars, to the memory of the late Brigadier Herkimer, who commanded the militia of Tryon county, in the state of New-York, and was killed fighting gallantly in defence of the liberty of these states."

At the most critical period of the revolutionary war when this state was nearly surrounded with hostile forces, and when destroying armies were penetrating it in various directions, the gallant Herkimer fell on the field of battle at the head of his patriotic neighbors. This exhibition of heroic virtue attracted the distinguised notice of Congress, but the situation of the times presented obstacles to an immediate compliance with their resolve. As there can be no reason for further delay, I hope that this subject will occupy your early attention.

The expressions of confidence which I have uniformly experienced from the people of this state, and their renewed approbation on a recent occasion, have impressed me with sentiments of gratitude, which no time nor vicissitude can extinguish. But preferring the testimony of conduct to the language of profession, I shall cheerfully submit to the decision of time, my profound sense of the distinguished honors conferred on me for my humble exertions in favor of the prosperity of our country.

DE WITT CLINTON.

Albany. 2d January. 1827.